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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,815	09/24/2003	Christopher J. Leszczynski	BGN1114	1971
7590	03/24/2004		EXAMINER	
Sean A. Kaufhold P.O. Box 131447 Carlsbad, CA 92013			MORAN, KATHERINE M	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/668,815	LESZCZYNSKI, CHRISTOPHER J.	
	Examiner	Art Unit	
	Katherine M Moran	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 24 September 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 9 is/are allowed.

6) Claim(s) 1 and 4-6 is/are rejected.

7) Claim(s) 2,3,7 and 8 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 24 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/19/2004.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

6) Other: _____.

DETAILED ACTION

Information Disclosure Statement

Please note that the listing of US 438,820 to Goulding is incorrect and should be US D438,820.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Mullaney (U.S. 5,881,391). Mullaney discloses the invention as claimed. Mullaney '391 teaches a hat mountable flag device for removably positioning on a hat, the device comprising an elongated rod 136 having first and second ends, a flag 140 formed of rigid material mounted on the rod and extending outwardly away from the rod, and a fastener 160 is attached to the second end of the rod for removably attaching the rod to the hat (Figure 5). The fastener includes a u-shaped clip having a pair of legs 162,164 and a central section extending between the legs with the rod being attached to the legs such that a longitudinal axis of the rod extends through each of the legs.

Allowable Subject Matter

3. Claims 2, 3, 7, and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claim 9 is allowed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Binner (U.S. 4,349,246), Damadian et al. (U.S. 6,247,205), Tsai (U.S. 6,481,060), Lazarus (U.S. 6,641,266), and Beller (US 2004/0006900) teach relevant prior art.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (703) 305-0452. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (703) 305-1025. The official and after final fax number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 3765

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kmm

March 19, 2004



Katherine Moran

Primary Examiner, AU 3765